



Emily M. Farah
Counsel, Regulatory

411 Seventh Avenue
Mail drop 15-7
Pittsburgh, PA 15219

Tel: 412-393-6431
efarah@duqlight.com

January 20, 2021

Via Electronic Filing

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Keystone Bldg. 2nd Floor W
400 N. Street
Harrisburg, PA 17120

RE: Kenneth Williams v. Duquesne Light Company
Docket No. C-2020-3023499

Dear Secretary Chiavetta:

Enclosed please find Duquesne Light Company's Preliminary Objection to the Formal Complaint filed by Kenneth Williams. Copies of this document and the enclosed filing were served upon Complainant in accordance with Commission regulations.

Please feel free to contact me if you have any questions.

Respectfully Submitted,

A handwritten signature in blue ink, appearing to read "Emily M. Farah".

Emily M. Farah
Counsel, Regulatory

cc: Kenneth Williams (w/encl.)

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

KENNETH WILLIAMS,

Complainant,

v.

DUQUESNE LIGHT COMPANY,

Respondent.

:
:
:
:
:
:
:
:
:
:
:

No: C-2020-3023499

PRELIMINARY OBJECTION

Filed on behalf of Respondent
Duquesne Light Company

Counsel of Record for this Party:
Emily M. Farah, Esquire
PA I.D. No. 322559
efarah@duqlight.com
(412) 393-6431
411 Seventh Avenue, MD 15-7
Pittsburgh, PA 15219

NOTICE TO PLEAD

TO COMPLAINANT KENNETH WILLIAMS:

YOU ARE HEREBY NOTIFIED TO FILE A WRITTEN RESPONSE TO THE WITHIN PRELIMINARY OBJECTION OF RESPONDENT DUQUESNE LIGHT COMPANY WITHIN TEN (10) DAYS OF SERVICE HEREOF OR A JUDGMENT MAY BE ENTERED AGAINST YOU.

DUQUESNE LIGHT COMPANY



Emily M. Farah
Counsel for Duquesne Light Company

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

| | | |
|-------------------------|---|--------------------|
| KENNETH WILLIAMS, | : | |
| | : | |
| Complainant, | : | |
| | : | |
| v. | : | No: C-2020-3023499 |
| | : | |
| DUQUESNE LIGHT COMPANY, | : | |
| | : | |
| Respondent. | : | |

PRELIMINARY OBJECTION

Pursuant to 52 Pa. Code § 5.101(a)(1), Duquesne Light files its Preliminary Objection to the Formal Complaint (“Complaint”) filed by Kenneth Williams, and in support thereof, states as follows:

I. INTRODUCTION

1. Duquesne Light seeks to dismiss the portion Complaint in its entirety because the Pennsylvania Public Utility Commission (“Commission” or “PUC”) lacks the legal authority and jurisdiction to provide Complainant with the requested relief in the form of a monetary judgment.

2. The Complaint states, in part, “Reimburse the damages of my computer”. Complaint Statement Paper.

3. Because the relief sought in the Complaint is relief the Commission lacks the legal authority to award, the portion of the Complaint requesting monetary compensation must be dismissed.

II. BACKGROUND

4. Duquesne Light is an electric distribution company certificated as a public utility permitted to operate within the Commonwealth in Pennsylvania.

5. The Commission's Rules of Practice and Procedure permit parties to file preliminary objections. The grounds for preliminary objections are limited to those set forth in 52 Pa. Code § 5.101(a) as follows:

- (1) Lack of Commission jurisdiction or improper service of the pleading initiating the proceeding.
- (2) Failure of a pleading to conform to this chapter or the inclusion of scandalous or impertinent matter.
- (3) Insufficient specificity of a pleading.
- (4) Legal insufficiency of a pleading.
- (5) Lack of capacity to sue, nonjoinder of a necessary party or misjoinder of a cause of action.
- (6) Pendency of a prior proceeding or agreement for alternative dispute resolution.
- (7) Standing of a party to participate in the proceeding.

6. The Commission's procedural regulations allow a party to file a preliminary objection to pleadings that fail to comply with the rules of administrative practice or where the Commission lacks jurisdiction over the proceeding. See 52 Pa. Code § 5.101(a)(1).

7. On or about January 8, 2021, the Company was electronically served with Complainant's Formal Complaint at the above-captioned docket.

8. Duquesne Light is timely filing its Answer contemporaneously with this Preliminary Objection.

III. LAW AND ARGUMENT

9. The Complaint is requesting to be "reimburse for [Complainant's] computer." Complaint Statement Paper.

10. Clearly, the sole relief sought in the Formal Complaint is an award of monetary damages from the Company.

11. It is well established that the Commission does not have jurisdiction over actions for damages. Horowitz v. PECO, Docket No. C-2013-2382740, 2013 WL 7019109, at *3 (Dec. 30, 2013).

12. In Elkin v. Bell Telephone Co., 420 A.2d 371 (Pa. 1980), the Superior Court of Pennsylvania stated:

The courts retain jurisdiction of a suit for damages based on negligence or breach of contract wherein a utility's performance of its legally imposed and contractually adopted obligations are examined and applied to a given set of facts.

Elkin, 420 A.2d at 379 (citations omitted).

13. Further, “[t]here is no question that the Commission lacks authority to award damages.” Horowitz at *3, citing Terminato v. Pa. National Insurance Co., 645 A.2d 1287 (Pa. 1994); Elkin v. Bell Telephone Co., 420 A.2d 371 (Pa. 1980); Feingold v. Bell Telephone Co. of Pa., 383 A.2d 791 (Pa. 1977); Ostrov v. I.F.T., Inc., 586 A.2d 409 (Pa. Super. 1991); Poorbaugh v. Pa. Pub. Util. Comm'n, 666 A.2d 744 (Pa. Cmwlth. 1995).

14. The Commission’s jurisdiction is limited only to “regulatory matters essential to utility service.” Horowitz at *3.

15. To the extent Complainant’s requested relief is for monetary damages for his computer, granting of such relief is outside the Commission’s jurisdiction, and the portion of the Complaint requesting monetary damages must be dismissed.

WHEREFORE, Duquesne Light Company respectfully requests that the Commission sustain its Preliminary Objection and dismiss the portion of the Complaint requesting monetary damages.

DUQUESNE LIGHT COMPANY



Emily M. Farah
Counsel for Duquesne Light Company

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

| | | |
|-------------------------|---|--------------------|
| KENNETH WILLIAMS, | : | |
| | : | |
| Complainant, | : | |
| | : | |
| v. | : | No: C-2020-3023499 |
| | : | |
| DUQUESNE LIGHT COMPANY, | : | |
| | : | |
| Respondent. | : | |

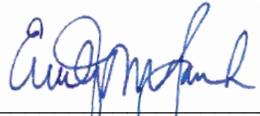
CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing Answer to Formal Complaint upon the participant listed below in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant):

VIA FIRST-CLASS MAILING AND ELECTRONIC MAILING

Kenneth Williams
958 Illinois Avenue
Pittsburgh, PA 15221
mare726@comcast.net

Dated this 20th day of January, 2021



Emily M. Farah, Esquire
PA I.D. No. 322559
(412) 393-6431
EFarah@duqlight.com
Counsel for Respondent, Duquesne Light
Company